

Appendix 2 - Duties of a director

As a director of Melaythenner Teeackana Warrana (Heart of Country) Aboriginal Corporation, I understand the legal duties required of me, as set out in the Corporations (Aboriginal and Torres Strait Islander) Act 2006, being:

Duty of care and diligence

Directors must exercise their powers and carry out their duties with reasonable care and diligence.

For example, they are across their corporation's affairs and:

- follow their corporation's rule book
- never miss a directors' meeting and always arrive on time
- read all the pre-meeting background papers
- know their corporation's financial position
- are not afraid to ask a lot of questions—especially if some of the matters presented to them are complicated or unclear.

I understand a breach of this duty may result in a civil penalty but not criminal liability.

Duty of good faith

Directors must exercise their powers and carry out their duties in good faith in the best interests of the corporation.

This means they must be honest and loyal in their dealings with each other and with the corporation.

For example, directors who act in good faith never make a decision for their own personal advantage. Their one and only concern is to act in the best interests of the corporation as a whole

I understand a breach of this duty may lead to a civil penalty or criminal liability, if the breach is reckless or intentionally dishonest.

Duty to NOT improperly use position or information

Directors must not misuse their position, or use information obtained as a result of their position, to gain a benefit for themselves, someone else or to cause harm to the corporation.

For example, they must never pass on personal details about members to other people nor give out information that might allow someone competing for a corporation contract an unfair advantage.

I understand a breach of this duty may lead to a civil penalty or criminal liability, if the breach is reckless or intentionally dishonest.

Duty to disclose material personal interests

Directors must tell each other their personal interests in matters relating to the affairs of the corporation.

This is so directors can avoid making decisions about the corporation which could personally benefit them or their family. 'Material personal interest' is better known as a 'conflict of interest'.

It is very important to remember that at all times the corporation's interests come first. There is nothing wrong with having a conflict of interest so long as you, as a director, disclose all the information about the conflict of interest to the other directors and abide by their decision how it is managed.

I understand a breach of this duty may result in a criminal penalty.

Duty to NOT trade while insolvent

Directors must not allow their corporation to trade when it does not have enough money to pay its bills when they are due.

To be 'insolvent' is to be unable to pay your debts when they fall due. If any one of the directors authorises a transaction, or makes a decision, which causes their corporation to become insolvent, they will have breached their duty to not trade while insolvent.

Directors should always know their corporation's financial position. Only then can they be sure that their corporation is not trading while insolvent.

I understand a breach of this duty may result in a civil penalty and, if dishonest, a criminal penalty.

Signature of person: _____

Name of person: _____

Date: _____

Director ID: _____

A director ID is required **before** nominating as a director. Applications without director IDs will not be considered. To apply for a director ID go to <https://www.abrs.gov.au/director-identification-number>.